IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BENTLEY A. HOLLANDER,	:	
Plaintiff,	: : :	CIVIL ACTION
v.	: :	NO. 10-526
ETYMOTIC RESEARCH, INC.,	: :	
Defendant.	:	
	ORDER	

AND NOW, this day of July, 2010, upon consideration of Defendant Etymotic Research, Inc.'s Motion to Dismiss or Transfer (Doc. 13); Plaintiff Bentley Hollander's Response in Opposition thereto (Doc. 14); Defendant's Motion to File a Reply (Doc. 15); and Plaintiff's Response in Opposition thereto (Doc. 16), IT IS HEREBY ORDERED and DECREED that Defendant's Motion to Dismiss or Transfer is **GRANTED IN PART and DENIED IN PART** as follows:

- 1. Defendant's Motion to Dismiss or Transfer is **GRANTED** to the extent that Plaintiff's Complaint is **DISMISSED** for failure to state with particularity the circumstances constituting Defendant's alleged false marking.
- 2. Defendant's Motion to Dismiss or Transfer is otherwise **DENIED**.
- 3. On or before Monday, July 26, 2010, Plaintiff may submit an amended complaint that complies with Fed. R. Civ. P. 9(b).

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IS FURTHER ORDERED that Defendant's Motion for Leave to Reply is DENIED.		
	BY THE COURT:	
	/s/ Petrese B. Tucker	
	Hon. Petrese B. Tucker, U.S.D.J.	